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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4246 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO.LTD.

Versus

MITABEN BAKULCHANDRA THAKKAR

Appearance:

MS LILU K BHAYA for Appellant

MR SN THAKKAR for Respondents No. 1-5

MR BD KARIA for Respondent No. 8

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE H.H.MEHTA

Date of decision: 23/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. In the present appeal we had issued notice on the respondent nos.1 to 5 (original claimants) for summary disposal/settlement only on the question of interest. Mr. S.N. Thakker appears for the respondent nos.1 to 5. Appeal admitted. Mr. S.N. Thakker waives service of notice of behalf of respondent nos.1 to 5 (original claimants) in the appeal.

2. On a joint request of learned counsel, this appeal is taken up for hearing today.

3. This is an appeal under section 173 of the Motor Vehicles Act, at the instance of the Insurance Company challenging the judgement and award passed under section 168 of the said Act by the Motor Accident Claims Tribunal, Ahmedabad City, in Motor Accident Claim Petition No.333/87.

4. As a result of the hearing and discussion, learned counsel for the respondent nos.1 to 5 (original claimants) has graciously conceeded that the rate of interest awarded by the Tribunal is somewhat on the excessive side and that the appropriate rate of interest applicable to the aggregate amount of compensation determined by the Tribunal may be fixed at 9% per annum from the date of the claim petition till realisation. On the facts and circumstances of the case we are of the opinion that this would also be the appropriate rate of interest. Learned counsel for the appellant is unable to contend, particularly on the facts of the case, as to how the appropriate rate of interest could possibly be lower than this.

5. Accordingly we hold and direct that the respondent nos.1 to 5 (original claimants) shall be entitled to interest at the rate of 9% per annum from the date of the claim petition till realisation on the aggregate amount of compensation due and payable to them as determined by the Tribunal.

6. The impugned award is modified only to the aforesaid extent and the rest of the award stands confirmed. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree accordingly.

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